

REMARKS

Claims 1-5 and 7-20 are pending in the application.

Claims 1 and 20 are amended above to include the feature of claim 6. Claim 6 has accordingly been cancelled from the application.

The examiner's claim rejections are discussed below.

I. THE LAW ANTICIPATION REJECTION IS MOOT

The examiner rejected claims 1-2, 4, 13, 15-16, 18 and 20 for being anticipated by Law (USP 3,497,283).

This anticipation rejection is moot in view of the amendments to independent claims 1 and 20 above to incorporate the feature of cancelled claim 6.

II. THE GREIVENKAMP ANTICIPATION REJECTION

The examiner rejected claims 1-2, 4-6, 9-14, 18 and 20 for being anticipated by Greivenkamp (USP 4,575,193). Regarding claim 6, it is the examiner's position that the Greivenkamp spectrometer comprises an input optical retardation element (18) to define the input polarization state of the imagery received by the imager (20). The examiner notes that in this case, the only element being interpreted as an imager is element 20. It appears that the examiner limits the interpretation of the imager to element 20 is because only then can it be alleged that waveplate 18 is an input retardation element. The examiner's position regarding Greivenkamp is erroneous for several reasons.

Firstly, at the top of page 4 of the Office Action, the examiner identifies polarizing beam splitter 16 of Greivenkamp as the imager of claim 1. Because claim 6 depends upon claim the examiner's anticipation position with respect to claim 6 – whether the imager is beam splitter (16) or feature (20) of Greivenkamp - is inconsistent with the rejection of claim 1. Moreover, in Greivenkamp, it is clearly all three elements (16), (18) and (20) that provide spatially separated imaging. Therefore, waveplate 18 cannot be an input retardation element as the examiner claims. Therefore, Greivenkamp does not disclose all the features of independent claims 1 and 20 and, therefore, all pending claims are novel over the cited prior art.

III. THE OBVIOUSNESS REJECTION IS MOOT

The examiner rejected claims 3 and 19 for obviousness in view of Law.

The examiner's obviousness rejection is moot in view of the amendment to independent claim 1 above to include the feature of claim 6.

CONCLUSION

Claims 1-5 and 7-20 are patentable over the cited prior art for the reasons indicted above. Favorable reconsideration and allowance of all pending application claims is, therefore, courteously solicited.

Date: January 12, 2009

By: /A. Blair Hughes/
A. Blair Hughes
Reg. No. 32,901
312-913-2123